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APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,575	07/01/2003	John Holmes	MS1-1526US	5173
22801 7590 02/21/2007 LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			EXAMINER PATEL, HARESH N	
			ART UNIT	PAPER NUMBER
			2154	
SHORTENED STATUTORY PERIOD OF RESPONSE		NOTIFICATION DATE	DELIVERY MODE	
3 MONTHS		02/21/2007	ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 02/21/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

lhptoms@leehayes.com

Office Action Summary	Application No.	Applicant(s)	
	10/611,575	HOLMES ET AL.	
	Examiner	Art Unit	
	Haresh Patel	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-22 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-22 are subject to examination.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-6, are drawn to, “creating a master session over a first connection through a server, creating a virtual channel over the connection, establishing a direct connection that bypasses the server, multiplexing the feature session and the master session over the first connection, appending a feature session identifier to data in the feature session and a master session identifier to data in the master session, initializing the master session using a session layer protocol (SIP), the SIP uses an email address to initialize the master session”, classified in class 718, subclass 1.
 - II. Claims 7-12, are drawn to, “a system for network communication having plurality of transport bridges with active network device configuration with at least one firewall and a reliable user datagram protocol bridge / a transmission control protocol/internet protocol (TCP/IP) bridge / a switchboard bridge and to multiplex feature data and master session data across”, classified in class 726, subclass 11.
 - III. Claims 13-17, are drawn to, “a transport protocol stack for use by an instant messaging application having a bridge layer, a switching module to dynamically select modules, detection module comprising an echo server to detect configuration, to multiplex data from a plurality of sessions, to create sessions corresponding to features of the instant messaging application”, classified in class 719, subclass 311.

- IV. Claims 18-22, are drawn to, “establishing an instant messaging session between a first client computer and a second client computer via a switchboard server, automatically establishing a peer-to-peer connection; transmitting first data via the switchboard server, transmitting second data via the peer-to-peer connection, selecting peer-to-peer bridge including an RUDP bridge / TCP/IP bridge, transmitting a first portion of a blob of the first data via the switchboard server, and transmitting a subsequent portion of the blob of the first data via the peer-to-peer connection”, classified in class 709, subclass 223.

3. The inventions are distinct, each from the other because of the following reasons:

Inventions I-IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has a separate utility such as “creating a master session over a first connection through a server, creating a virtual channel over the connection, establishing a direct connection that bypasses the server, multiplexing the feature session and the master session over the first connection, appending a feature session identifier to data in the feature session and a master session identifier to data in the master session, initializing the master session using a session layer protocol (SIP), the SIP uses an email address to initialize the master session, lacking one or more of the particulars of other three inventions”. Invention II has a separate utility such as “a system for network communication having plurality of transport bridges with active network device configuration with at least one firewall and a reliable user datagram protocol bridge / a transmission control protocol/internet protocol (TCP/IP) bridge / a

Art Unit: 2154

switchboard bridge and to multiplex feature data and master session data across”, lacking one or more of the particulars of other three inventions. Invention III has a separate utility such as “a transport protocol stack for use by an instant messaging application having a bridge layer, a switching module to dynamically select modules, detection module comprising an echo server to detect configuration, to multiplex data from a plurality of sessions, to create sessions corresponding to features of the instant messaging application”. Invention IV has a separate utility such as “establishing an instant messaging session between a first client computer and a second client computer via a switchboard server, automatically establishing a peer-to-peer connection; transmitting first data via the switchboard server, transmitting second data via the peer-to-peer connection, selecting peer-to-peer bridge including an RUDP bridge / TCP/IP bridge, transmitting a first portion of a blob of the first data via the switchboard server, and transmitting a subsequent portion of the blob of the first data via the peer-to-peer connection, lacking one or more of the particulars of other three inventions”. Therefore, inventions I, II, III and IV, have different functions, different modes of operation and they have different effects. See MPEP 806.05(d).

4. These inventions are distinct for the reasons given above, and the search required for each Group is different and not co-extensive for examination purpose. For example, the searches for the four inventions would not be co-extensive because these groups would require different searches on PTO's classification class and subclass as following:

(a) Group I search (claims 1-6) would require use of search class 718, subclass 1 (not required for the inventions II-IV).

(b) Group II search (claims 7-12) would require use of search class 716, subclass 11 (not required for the inventions I, III, IV).

(c) Group III search (claims 13-17) would require use of search class 719, subclass 311 (not required for the inventions I, II, IV).

(d) Group IV search (claims 18-22) would require use of search class 709, subclass 223 (not required for the inventions I, II, III).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art, as shown by their different classification, and because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper. Because these inventions are distinct for the reasons given above and the extensive search required for one group is not required for the other groups, restriction for examination purposes as indicated is proper.

5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

6. A shortened statutory period for response to this action is set to expire 0 (zero) months and 30 (thirty) days from the mail date of this letter. Failure to respond within the period for response will result in ABANDONMENT of the application (see 35 U.S.C. 133, MPEP 710.02, 710.02(b)).

Art Unit: 2154

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haresh Patel whose telephone number is (571) 272-3973. The examiner can normally be reached on Monday, Tuesday, Thursday and Friday from 10:00 am to 8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Haresh Patel

February 15, 2007